

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

UNITED STATES OF AMERICA,

v.

GEORGE AREF NADER,

Defendant.

Case No. 1:19-CR-201

The Honorable Judge Brinkema

**MOTION TO SEAL AND MEMORANDUM IN SUPPORT OF SAME**

Pursuant to Local Criminal Rule 49(E), defendant, George Nader, through counsel, moves for an order permitting the defense to file under seal portions of Mr. Nader's Objections to the Presentence Report and Memorandum in Aid of Sentencing and the exhibit (Dr. Fred Berlin's report based on his psychiatric evaluation of Mr. Nader) filed with this Court on June 22, 2020. A proposed order is attached for the consideration of the Court.<sup>1</sup> In support of this motion, the defense further states:

**I. Item to be Filed Under Seal, and Necessity for Sealing**

A. Mr. Nader asks the Court to seal portions of the Memorandum in Aid of Sentencing and Objections to the Presentence Investigation Report and the exhibit, which pertain to personal, medical and mental health material, privileged material, and which refer to material that is under

---

<sup>1</sup> The document to be filed under seal will be filed with the Court non-electronically pursuant to Local Criminal Rule 49(E) and the Electronic Case Filing Policies and Procedures (*see* p. 21). Pursuant to the Local Rules, the sealed document is to be treated as sealed pending the outcome of this motion.

a protective order. The defense has endeavored to seal only the minimum necessary portion of its Objections to the Presentence Report and Memorandum in Aid of Sentencing and will file a redacted version on the public docket.

B. Filing the motion partially under seal and the exhibit (Dr. Fred Berlin's psychiatric evaluation of Mr. Nader) entirely under seal is necessary because the motion contains discussion of privileged material and material that is under a protective order and the exhibit contains substantial discussion of confidential and sensitive medical and mental health information pertaining to Mr. Nader, his family, and third parties.

C. Counsel for Mr. Nader has considered procedures other than filing under seal and none will suffice to protect disclosure of this confidential information.

## **II. Previous Court Decisions Which Concern Sealing Documents**

The Court has the inherent power to seal materials submitted to it. *See United States v. Wuagneux*, 683 F.2d 1343, 1351 (11th Cir. 1982); *State of Arizona v. Maypenny*, 672 F.2d 761, 765 (9th Cir. 1982); *Times Mirror Company v. United States*, 873 F.2d 1210 (9th Cir. 1989); *see also Shea v. Gabriel*, 520 F.2d 879 (1st Cir. 1975); *United States v. Hubbard*, 650 F.2d 293 (D.C. Cir. 1980); *In re Braughton*, 520 F.2d 765, 766 (9th Cir. 1975). "The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests." *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

## **III. Period of Time to Have the Document Under Seal**

The materials to be filed under seal would need to remain sealed permanently.

Accordingly, Mr. Nader respectfully requests that this Court enter an order allowing the defense to file under seal portions of Mr. Nader's Objections to the Presentence Report and Memorandum in Aid of Sentencing and to seal the exhibit, Dr. Fred Berlin's report.

Dated: June 22, 2020

Respectfully submitted,  
/s/ Jonathan S. Jeffress  
Jonathan S. Jeffress (#42884)  
Emily Anne Voshell (#92997)  
Courtney Roberts Forrest (#76738)  
KaiserDillon PLLC  
1099 14th Street, NW  
8th Fl. West  
Washington, DC 20005  
Tel: (202) 640-4430  
Fax: (202) 280-1034  
[jjeffress@kaiserdillon.com](mailto:jjeffress@kaiserdillon.com)  
[evoshell@kaiserdillon.com](mailto:evoshell@kaiserdillon.com)  
[cforrest@kaiserdillon.com](mailto:cforrest@kaiserdillon.com)

John N. Nassikas III (#24077)  
Andrew E. Talbot (#93801)  
Arnold & Porter Kaye Scholer LLP  
601 Massachusetts Ave., NW  
Washington, DC 20001  
Tel: (202) 942-5000  
Fax: (202) 942-5999  
[John.Nassikas@arnoldporter.com](mailto:John.Nassikas@arnoldporter.com)

*Attorneys for Defendant  
George Aref Nader*

**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2020, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to counsel of record.

/s/ Jonathan S. Jeffress  
Jonathan S. Jeffress